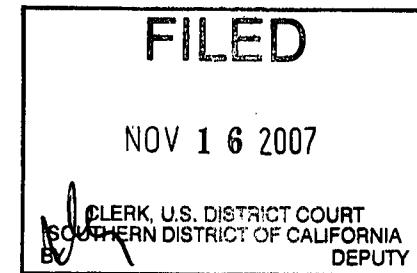


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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,) Criminal Case No. 07CR2878-LAB
11 Plaintiff,)
12 v.) STIPULATION AND JOINT MOTION
13 JOSE LUIS QUINTERO-ARIAS,) FOR RELEASE OF MATERIAL
14 Defendant.) WITNESSES AND ORDER THEREON

16 IT IS HEREBY STIPULATED AND AGREED between the Plaintiff, UNITED STATES
17 OF AMERICA, through its counsel, Karen P. Hewitt, United States Attorney, and Timothy F. Salel,
18 Assistant U.S. Attorney, and Defendant JOSE LUIS QUINTERO-ARIAS, defense counsel, Timothy
19 Garrison, Esq., Federal Defenders of San Diego, Inc., that:

20 1. Pursuant to a Plea Agreement, Defendant agrees to plead guilty to Count 1 of the
21 Indictment in Criminal Case No. 07CR2878-LAB charging Defendant with transportation of illegal
22 aliens in violation of 8 U.S.C. § 1324(a)(2)(B)(ii) and 18 U.S.C. § 2.

23 2. There are two material witnesses in this case – (1) Salvador Barragan-Cruz, and (2)
24 Raul Lizarraga-Borguez – whose testimony is material if this case proceeded to trial. As discussed
25 further, the parties stipulate that the two material witnesses would testify to facts relevant to the
26 charges and such testimony would be admissible at trial as statements against interest of an
27 unavailable witness under Fed. R. Evid. 804(b)(3), and Defendant agrees to waive any confrontation
28 clause challenge under Crawford v. Washington, 524 U.S. 36 (2004).

- 1 3. Material witness # 1, Salvador Barragan-Cruz, in this case:
- 2 a. Is an alien with no legal right to enter or remain in the United States;
- 3 b. Is a Mexican citizen from Tihuatlán, Vera Cruz, Mexico;
- 4 c. Traveled through the mountains on foot and crossed into the United States
5 from Mexico;
- 6 d. Defendant guided him and the other material witness into the United States
7 from Mexico;
- 8 e. Was to pay \$1,500 to be smuggled to a destination within the United States,
9 namely Santa Barbara, California; and
- 10 f. May be released to the United States Department of Homeland Security for
11 return to her country of origin.
- 12 4. Material witness # 2, Raul Lizarraga-Borguez, in this case:
- 13 a. Is an alien with no legal right to enter or remain in the United States;
- 14 b. Is a Mexican citizen from Sinaloa, Mexico;
- 15 c. Traveled through the mountains on foot and crossed into the United States
16 from Mexico;
- 17 d. Defendant guided him and the other material witness into the United States
18 from Mexico;
- 19 e. Was to pay \$1,300 or \$1,400 to be smuggled to a destination within the
20 United States, namely Los Angeles, California; and
- 21 f. May be released to the United States Department of Homeland Security for
22 return to her country of origin.
- 23 5. After the material witnesses are ordered released by the Court pursuant to this
24 stipulation and joint motion, if the Defendant withdraws his guilty plea before the plea is accepted
25 by the District Court, the Defendant agrees that, in any proceeding including, but not limited to,
26 motions hearings, trial, sentencing, appeal, or collateral attack, that:
- 27 //

- 1 a. The stipulated facts set forth above shall be admitted as substantive evidence;
- 2 b. The United States may elicit hearsay testimony from arresting agents
- 3 regarding any statements made by the material witnesses provided in
- 4 discovery, and such testimony shall be admitted as substantive evidence
- 5 under Fed. R. Evid. 804(b)(3) as statements against interest of an unavailable
- 6 witness; and
- 7 c. Understanding that, under Crawford v. Washington, 524 U.S. 36 (2004),
- 8 testimonial hearsay statements are not admissible against a defendant
- 9 unless the defendant confronted and cross examined the witness who made
- 10 the testimonial hearsay statements, Defendant waives the right to confront
- 11 and cross examine the material witnesses in this case.

12 Based on the foregoing, the parties jointly move the stipulation into evidence and move for
13 the immediate release of the above-named material witnesses for return to their respective country
14 of origin.

15 It is so STIPULATED AND AGREED.

16 Respectfully submitted,

17 KAREN P. HEWITT
18 United States Attorney

19 Dated: 11/15/07

20 PAUL L. STARITA
21 Assistant U.S. Attorney

22 Dated: 11/14/07

23 TIMOTHY GARRISON
24 Federal Defenders of San Diego, Inc.
25 Defense Counsel

26 Dated: 11/14/07

27 JOSE LUIS QUINTERO-ARIAS
28 Defendant